

Message Text

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SUBJECT:U.S.-CANADIAN BILATERAL NEGOTIATIONS

1. SUMMARIES OF CANADIAN FEDERAL AND PROVINCIAL LAWS PROVIDING FOR EXPORT RESTRICTIONS ON ORES AND MINERALS HAND-CARRIED TO MTN DEL (HAMMERSCHLAG) BY ABELSON (STR).

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2. THE CANADIANS HAVE REQUESTED LIBERALIZATION OF ACCESS TO THE U.S. MARKET FOR WROUGHT AND UNWROUGHT NONFERROUS METALS INDICATING THAT MARKET FORCES SHOULD DETERMINE THE LOCATION OF METAL REFINERIES, PROCESSING PLANTS, AND MANUFACTURING FACILITIES. THE CANADIANS HAVE ALSO INDICATED THAT CONTROL BY THE MARKET FORCES WOULD PROMOTE EFFICIENT ALLOCATION OF RESOURCES AND EXPANDED INTERNATIONAL TRADE IN

NONFERROUS METALS.

3. THE U.S." HAS RESPONDED GENEROUSLY TFOCAWADA'HTDASDRUN-FOR INCREASED MARKET ACCESS IN THE MTN FOR WROUGHT AND UNWROUGHT NONFERROUS METALS. OUR TARIFF OFFER INCLUDES EXTENSIVE CUTS ON THESE PRODUCTS INCLUDING THE ELIMINATION OF MANY TARIFFS 5 PERCENT AND BELOW. THIS RESULTS IN AN AVERAGE DEPTH OF CUT ON UNWROUGHT AND WROUGHT METALS OF 64.4 PERCENT. WE HAVE ALSO AGREED TO DISCUSS CANADA'S ONLY SUBSTANTIVE NTM REQUEST REGARDING NONFERROUS METALS, I.E. THE DEFINITION OF UNWROUGHT METAL.

4. IN ORDER FOR THE UNITED STATES TO MAINTAIN THIS LEVEL OF LIBERALIZATION, IT WILL BE NECESSARY FOR US TO OBTAIN AN INCREASE IN TRADE LIBERALIZATION BY THE OTHER COUNTRIES TO A LEVEL WHICH ALLOWS AN EQUIVALENT DEGREE OF FREEDOM FOR ECONOMIC FORCES TO CONTROL THE FLOW OF TRADE IN THESE PRODUCTS. AMONG OTHER THINGS, THIS REQUIRED LIBERALIZATION WOULD NECESSARILY INCLUDE COMMITMENTS BY CANADA REGARDING ACCESS TO RAW MATERIALS.

5. CANADIAN EXPORT RESTRICTIONS AFFECTING NONFERROUS METALS CONSIST OF BOTH FEDERAL AND PROVINCIAL LAWS. THE FEDERAL LAWS ALLOW THE CANADIAN GOVERNMENT TO RESTRICT EXPORTS OF RAW MATERIAL FOR NATIONAL SECURITY REASONS, TO ENSURE ADEQUATE INTERNAL SUPPLY AND TO ENSURE THE MAINTENANCE OF ADEQUATE PROCESSING FACILITIES IN CANADA. IN LIMITED OFFICIAL USE

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ADDITION, SECTION 104 OF THE CANADA MINING REGULATIONS PROHIBITS THE EXPORTATION OF UNTREATED OR UNREFINED NON-FERROUS ORES AND MINERALS FROM THE FEDERALLY ADMINISTERED NORTHWEST TERRITORIES UNLESS A SPECIFIC EXEMPTION HAS BEEN GRANTED BY THE GOC.

6. THE PROVINCIAL RESTRICTIONS PROVIDE FOR EITHER A HEAVY TAX ON THE EXPORT OF ORES AND MINERALS OR THE PROHIBITION OF EXPORT OF THESE RESOURCES. THE PROVINCE OF MANITOBA REQUIRES THAT ALL ORES AND MINERALS BE REFINED IN CANADA. MINING COMPANIES WHO SHIP ORES OUT OF CANADA WITHOUT PROVINCIAL PERMISSION RISK LOSS OF THEIR MINING LEASES. THE PROVINCE OF ONTARIO HAS AMENDED ITS MINING ACT TO REQUIRE THAT ALL ORES FROM MINES DEVELOPED IN ONTARIO AFTER 1970 AND 51 PERCENT OF ORES FROM MINES IN EXISTENCE BEFORE 1970 MUST BE PROCESSED AND TREATED IN CANADA. THE AMENDMENT ALSO SETS UP A TAX INCENTIVE SYSTEM TO STIMULATE PROCESSING IN CANADA WITH TAX DEDUCTION ALLOWANCES BASED ON THE EXTENT OF REFINING PERFORMED IN CANADA. FURTHER, ONTARIO DISALLOWS THE COST OF FOREIGN PROCESSING FOR THE PURPOSES OF CALCULATING DEDUCTIONS IN TAX PAYMENTS.

7. IN THE PROVINCE OF NEW BRUNSWICK MINE OPERATORS ARE REQUIRED TO PAY UP TO THREE (3) TIMES THE AMOUNT OF NORMAL TAX IF ORES ARE SHIPPED OUT OF NEW BRUNSWICK FOR PROCESSING. IN QUEBEC PROVINCE THE TAX IS DOUBLED UNDER THE SAME CIRCUMSTANCES. (NOTE: AMEMBASSY OTTAWA - WASHINGTON IS NOT AWARE OF THE RATES OF THESE TWO PROVINCIAL TAXES. PLEASE SUPPLY RELEVANT DETAIL IF AVAILABLE.) THIS DOUBLING AND TRIPLING OF TAXES ON ORES SHIPPED OUT OF THE PROVINCE FAR EXCEEDS THE U.S. TARIFF DIFFERENTIAL BETWEEN PROCESSED AND NON-PROCESSED METALS AND ORES. ALSO, THIS DIFFERENTIAL IS BEING FURTHER REDUCED IN THE U.S. OFFER IN THE MTN.

8. THE U.S. NTM REQUESTS OF CANADA REFERRED TO THE LOCAL REFINING REQUIREMENTS FOR ORES AND MINERALS IN THE ONTARIO LIMITED OFFICIAL USE

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AND MANITOBA MINING ACTS, SINCE THESE ACTS PROVIDE FOR POTENTIAL PROHIBITION OF ORE EXPORTS. FYI: THE RESTRICTIONS ON EXPORTATION OF ORES AND MINERALS ARE IN THE LAW, BUT THE USE OF THEM HAS NOT YET BEEN EXTENSIVE. THERE IS INDUSTRY CONCERN, HOWEVER, THAT PRESENT LEVELS OF CANADIAN EXPORTS MAY NOT CONTINUE INDEFINITELY. END FYI. THE U.S. BELIEVES THAT THE SECTIONS OF THE PROVINCIAL ACTS RESTRICTING THE EXPORT OF UNREFINED ORES AND MINERALS SHOULD BE ELIMINATED.

9. THE U.S. IS ALSO CONCERNED ABOUT THE DISCRIMINATORY TAXES ASSESSED BY NEW BRUNSWICK AND QUEBEC PROVINCES ON MINE OPERATORS WHO SHIP ORES AND MINERALS OUTSIDE THE PROVINCE FOR REFINING. THESE SPECIFY A SUBSTANTIALLY HIGHER TAX RATE FOR EXPORTED ORES THAN FOR ORES REFINED WITHIN THE PROVINCE. WE FEEL THESE TAX PRACTICES ACT TO DISTORT THE EFFICIENT ALLOCATION OF RAW MATERIALS AND RESTRICT INTERNATIONAL TRADE AND SHOULD BE ELIMINATED.

10. THE FOREGOING POINTS ARE OF PARTICULAR CONCERN TO U.S. REFINERS OF LEAD, ZINC, AND COPPER. ONTARIO IS THE PRIMARY PROVINCIAL EXPORTER OF BOTH ZINC AND LEAD ORES AND CONCENTRATES TO THE UNITED STATES. IT ALSO EXPORTS A SUBSTANTIAL AMOUNT OF COPPER ORE AND CONCENTRATES ALTHOUGH THE PACIFIC PROVINCES (ALBERTA AND BRITISH COLOMBIA) ARE THE LARGEST SUPPLIERS. QUEBEC ALSO EXPORTS SIGNIFICANT AMOUNTS OF COPPER AND ZINC ORES AND CONCENTRATES. BOTH MANITOBA AND NEW BRUNSWICK EXPORT SUBSTANTIAL AMOUNTS OF COPPER ORES TO THE UNITED STATES, AND SMALL AMOUNTS OF LEAD AND ZINC ORES. VANCE

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